IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2658 of 2007

Mohammed Ajgar Ayub Qureshi & Anr ..Applicants.

Vs.

The State of Maharashtra ..Respondent.

Mr A. P. Mundargi, Advocate for the applicants.

Mr Rajesh More, APP for the State.

CORAM: V.C. DAGA,J.
DATED 13.9.2007.

P.C.:-

1. Heard learned counsel for the applicants and learned A.P.P.for the State.

2. Perused application and the material available on record.

3. Complainant's complaint is that on 1.7.2007, when Officers of M.S.E.B. were putting cable in Jivan Baug area, Mumbra at that time, one Yasin Ayub Qureshi, the Corporator of the said area alongwith Masrat Qureshi, Imran Qureshi and Sufiyan Qureshi alongwith 50-60 persons gathered. During the course of enquiry by the applicant at whose instance work of putting cable was being done, some unfortune event happened resulting in exchange of hot words. The uncle of the complainant tried to intervene. The members of the mob were not in a mood to listen. They started assaulting the complainant with fist

and blows. At that time, police constables, who were on duty, were also man-handled by the members of the mob. The complaint came to be lodged with Mumbra Police Station reporting above incident alongwith theft of Rs 2 lacs from his office. C.R. No. I-344 of 2007 came to be registered against the applicant and other accused persons.

4. The applicants came to be arrested for having committed offences under Sections 395, 353, 332, 325, 146, 147, 148, 452, 427, 504, 323 read with Section 149 of the I.P.C. and Sections 37 (1) and 135 of the Bombay Police Act.

5. Applicants are seeking bail under Section 439 of the Cr.P.C.

6. During the course of hearing on 27.8.2007 learned APP had made statement that charge sheet would be filed within a week. Consequently, this matter was adjourned for a week. Thereafter, matter appeared on board on 11.9.2007. Again, the statement was made by the learned A.P.P. stating that charge sheet

would be filed within a day or two. The statement made by the learned A.P.P. was accordingly recorded. However, as yet no charge sheet has been filed. It is, thus, clear that though charge sheet is ready but the same is not yet filed. Investigation is complete. Majority of the Sections applied are bailable.

7. The learned counsel for the applicant submits that the applicant is falsely implicated and no specific role is assigned to a specific person in commission of offence.He submits that some of the co-accused persons are already released on bail.

8. The learned A.P.P. could not justify as to for what purpose further custody of the applicants is required, especially, when the investigation is complete. He could not point out any specific overt act committed by the applicants-accused in commission of the alleged offence.

9. Considering the nature of the offences, material available on record, and the fact

that some of the co-accused have already been released on bail by the learned Sessions Judge, Thane vide the order dated 27.7.2007,I am of the opinion that this is a fit case in which bail can be granted.

10. In the above view of the matter, the applicants-accused are granted bail on following terms and conditions.

(a)The applicant Nos. 1 and 2 -accused (i.e Mohammed Ajgar Ayub Qureshi and Aftab Mohammad Hussain Sayyad) be released on bail in C. R.No. I-344 of 2007,registered with Mumbra Police Station, for the offence under Sections 395, 353, 332, 325, 146, 147, 148, 452, 427, 504, 323 read with Section 149 of the I.P.C. and Sections 37 (1) and 135 of the Bombay Police Act, on their furnishing personal bonds of Rs.25,000/-each with one or two sureties each in the like amount.

b] The applicants shall report to the

concerned Police Station once in a week i.e. on every Saturday between 3.00 to 5.00 p.m.till the conclusion of the trial.

c] The applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

d] The applicants shall co-operate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicants to delay the trial may be a ground for cancellation of bail.

e] Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

11. Application is disposed of in above terms.

(V.C. DAGA,J.)